

Reply Brief Under 37 C.F.R. §41.41
Application No. 10/047,366
Paper Dated: December 3, 2008
In Reply to USPTO Correspondence of October 3, 2008
Attorney Docket No. 3633-012217

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No. : 10/047,366 Confirmation No. 5072
Applicant : DONALD R. FRALIC
Filed : January 14, 2002
Title : METHOD OF ON-LINE AUCTIONING FOR LEASES
Group Art Unit : 3696
Examiner : Gerald C. Vizvary
Customer No. : 28289

MAIL STOP APPEAL BRIEF-PATENTS

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. §41.41

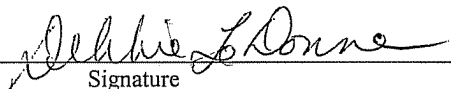
Sir:

In response to the Examiner's Answer dated October 3, 2008, Applicant submits the following Remarks.

I hereby certify that this correspondence is being electronically submitted to the United States Patent and Trademark Office on December 3, 2008.

12/03/2008

Date


Signature

Debbie LeDonne

Typed Name of Person Signing Certificate

Initially, it is to be appreciated that the Examiner has not refuted the argument in the Appeal Brief that the Silverman et al. patent utilizes ranking information as a noun whereas the claims of the present application utilize “ranking” as a verb. In addition, the Examiner has not identified anywhere in the Silverman et al. patent where a qualitative variable is assigned a grade or relative weight. Inasmuch as the Silverman et al. patent does not disclose, teach, or suggest these features of claim 1, and inasmuch as the Examiner has admitted that the Waldo et al. patent was only relied upon for teaching an on-line leasing system, rather than for specific features of the system (Examiner’s Answer, page 13, paragraph 2), claim 1 is patentable over the teachings of the Silverman et al. and Waldo et al. patents. To this end, it is stressed that “ranking information” in the Silverman et al. patent is a noun, whereas in claim 1 of the present application, “ranking” is a verb.

In the paragraph bridging pages 12 and 13 of the Examiner’s Answer, the Examiner states that the Silverman et al. patent is relied upon for teaching an on-line auction process which incorporates both firm objective (quantitative) and subjective (qualitative) variables for the ranking of transaction information input by the trader and potential counterparties (see Silverman et al., column 4, lines 13-18).

Column 4, lines 18-27 of the Silverman et al. patent disclose that the ranking information (noun) is utilized as an indication of how each user qualifies other users in terms of acceptability as a counterparty to one or more types of transactions. This ranking, however, is not the same as “ranking” the weighted total scores, i.e., creating an ordered list of the weighted total scores, of step (e) of claim 1. Moreover, the ranking information in the Silverman et al. patent is with regard to qualifying the counterparties to a transaction. In contrast, the “ranking” in claim 1 is of weighted total scores assigned to each lessor based on a grade or relative weight received for at least one lessor entered qualitative lessor variable and the lessor entered quantitative lessor data. In other words, in addition to the ranking information in the Silverman et al. patent being a noun and the “ranking” in claim 1 being a verb, the ranking information in the Silverman et al. patent is directed to a completely different object than the “ranking” in claim 1.

On page 13, second paragraph of the Examiner's Answer, the Examiner alleges that one of ordinary skill in the art would look to include leases in the system of the Silverman et al. patent. Initially, it should be noted that the Silverman et al. patent is directed to a negotiated matching system. The mere fact that the Silverman et al. patent discloses hardware that can be utilized with a lease system of the present application is not dispositive that one of ordinary skill in the art would practice all the steps of claim 1 of the present application utilizing such system. For example, the Silverman et al. patent does not disclose, teach, or suggest the use of a grade or relative weight for at least one qualitative variable and then processing that grade or relative weight received for the qualitative variable and a lessor entered qualitative lessor data to determine a weighted total score, as is expressly required of claim 1.

On page 14, second paragraph of the Examiner's Answer, the Examiner alleges that column 4, lines 35-49 of the Silverman et al. patent disclose all the limitations of claim 2 of the present application. Initially, it should be noted that the Silverman et al. patent does not disclose at least the final step of claim 2, namely, providing to at least one lessor's computer the third or fourth plurality of lessee entered qualitative lessor variables and the corresponding third or fourth plurality of lessee entered quantitative lessor data, respectively, based on the first or second lease simulation outcome provided to the lessee's computer via the computer network. To this end, there is no disclosure, teaching, or suggestion in the Silverman et al. patent to discriminate which information is provided to a party to a transaction based upon a simulation outcome provided to another party.

Moreover, it is respectfully submitted that identifying potential transactions and potential counterparties only to have a second set of transaction parameters to be negotiated by said parties to the potential transaction is simply not the same as determining and displaying first and second lease simulation outcomes. To this end, the mere fact that one identifies potential transactions and potential counterparties cannot be equated to completing a complete negotiation.

Lastly, on the second paragraph of page 16 of the Examiner's Answer, the Examiner argues that the firm transaction date and the firm price imply time intervals and expiration times. However, it is respectfully submitted that this is inaccurate and that the firm

transaction date and firm price do not disclose, teach, or suggest a term of a lease, e.g., two years.

SUMMARY

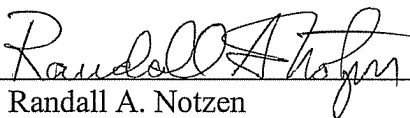
The claims of the present application disclose a lease auction method that includes a number of steps not disclosed, taught, or suggested in the Silverman et al. patent and/or the Waldo et al. patent. For example, as discussed above, the Silverman et al. and Waldo et al. patents do not disclose ranking weighted total scores. Accordingly, these documents cannot disclose displaying ranked weighted total scores on lessees' computers and lessors' computers via computer network. Moreover, these documents cannot disclose repeating steps (c) through (f) of claim 1 each time there is a change of at least one of the lessor entered qualitative lessor variables or one of the lessor entered quantitative lessor data. To this end, the Silverman et al. and Waldo et al. patents do not disclose, teach, or suggest the use of a grade or a relative weight for a qualitative variable along with lessor entered quantitative lessor data to determine a weighted total score for each lessor and then ranking and displaying these weighted total scores to enable other lessors to participate meaningfully in a lease auction.

CONCLUSION

For the above reasons, and the reasons set forth in the Appeal Brief filed on June 25, 2008, it is respectfully urged that the final rejection on the merits be reversed and a Notice of Allowance issued for claims 1-5.

Respectfully submitted,

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